

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDWARD THOMAS KENNEDY,	:	CIVIL NO.: 3:18-CV-00767
	:	
Plaintiff,	:	
	:	(Judge Mariani)
v.	:	
	:	(Chief Magistrate Judge Schwab)
DAVID JOHN DUTCAVAGE, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

January 18, 2019

Presently before us are two motions for recusal filed by the plaintiff, Edward Thomas Kennedy. *See docs. 13, 15.* “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a) (2018). 28 U.S.C. § 455 also provides that a judge shall recuse herself where she “has a personal bias or prejudice concerning a party.” Further, recusal may be required under the Due Process Clause “when, objectively speaking, ‘the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.’” *Rippo v. Baker*, 137 S. Ct. 905, 907 (quoting *Withrow v. Larkin*, 421 U.S. 35, 47 (1975)). “[A] party’s displeasure with legal rulings does not form an adequate basis for recusal.” *Securacomm Consulting, Inc. v. Securacom, Inc.*, 224 F.3d 273, 278 (3d Cir. 2000) (first citing *In re TMI Litig.*,

193 F.3d 613, 728 (3d Cir. 1999); then citing *Jones v. Pittsburgh Nat’l Corp.*, 899 F.2d 1350, 1356 (3d Cir. 1990)).

Here, Kennedy alleges that I am biased (*doc. 13* ¶ 3), and that I exceeded my jurisdiction by ruling that he did not have standing to bring a claim challenging the constitutionality of Pennsylvania’s bad checks statute (*doc. 15* ¶ 1); *see doc. 11* at 9-15. Kennedy has not pointed to any facts that establish that I am biased, and I thoroughly explained the law as to why he did not have standing to bring a constitutional claim in my prior opinion. *See doc. 11* at 9-15.

“[A] judge ‘has as strong a duty to sit when there is no legitimate reason to recuse as [she] does to recuse when the law and facts require.’” *Conklin v.*

Warrington Twp., 476 F. Supp. 2d 458, 463 (M.D. Pa. 2007) (quoting *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 659 (10th Cir. 2002)).

Accordingly, **IT IS ORDERED** that Kennedy’s motions for recusal (*docs. 13, 15*) are **DENIED**.

S/Susan E. Schwab

Susan E. Schwab

United States Chief Magistrate Judge